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**BEFORE THE  
RESPIRATORY CARE BOARD  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation:

Case No. 1H 2008 159

TIMOTHY W. ROWEN  
49 Linden Drive  
Santa Clara, CA 95050

**A C C U S A T I O N**

Respiratory Care Practitioner No. 8018

Respondent.

Complainant alleges:

**PARTIES**

1. Stephanie Nunez (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Respiratory Care Board of California, Department of Consumer Affairs.

2. On or about August 2, 1985, the Respiratory Care Board issued Respiratory Care Practitioner Number 8018 to Timothy W. Rowen (Respondent). The Respiratory Care Practitioner was in full force and effect at all times relevant to the charges brought herein and will expire on October 31, 2009, unless renewed.

**DISCIPLINARY HISTORY**

3. Effective March 14, 2005, in case no. R-1933, Respondent was placed on three years probation pursuant to stipulation, based on his 2003 conviction for violating Penal

Code section 415(3) [offensive words in public inherently likely to provoke an immediate violent reaction] and a 2002 conviction for violating Penal Code section 653m [telephone calls or contact by electronic communication device with intent to annoy.] Respondent successfully completed probation on March 13, 2008.

#### JURISDICTION

4. This Accusation is brought before the Respiratory Care Board (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

5. Section 3710 of the Code states: “The Respiratory Care Board of California, hereafter referred to as the board, shall enforce and administer this chapter [Chapter 8.3, the Respiratory Care Practice Act].”

6. Section 3718 of the Code states: “The board shall issue, deny, suspend, and revoke licenses to practice respiratory care as provided in this chapter.”

7. Section 3750 of the Code states:

“The board may order the denial, suspension or revocation of, or the imposition of probationary conditions upon, a license issued under this chapter, for any of the following causes:

“(d) Conviction of a crime that substantially relates to the qualifications, functions, or duties of a respiratory care practitioner. The record of conviction or a certified copy thereof shall be conclusive evidence of the conviction.

“(g) Conviction of a violation of any of the provisions of this chapter or of any provision of Division 2 (commencing with Section 500), or violating, or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or term of this chapter or of any provision of Division 2 (commencing with Section 500).

“(j) The commission of any fraudulent, dishonest, or corrupt act which is substantially related to the qualifications, functions, or duties of a respiratory care practitioner.”

1                   8.       California Code of Regulations, title 16, section 1399.370, states:

2                   “For the purposes of denial, suspension, or revocation of a license, a crime or act  
3 shall be considered to be substantially related to the qualifications, functions or duties of  
4 a respiratory care practitioner, if it evidences present or potential unfitness of a licensee to  
5 perform the functions authorized by his or her license or in a manner inconsistent with the  
6 public health, safety, or welfare. Such crimes or acts shall include but not be limited to  
7 those involving the following:

8                   “(a) Violating or attempting to violate, directly or indirectly, or assisting or  
9 abetting the violation of or conspiring to violate any provision or term of the Act.”

10                                   COST RECOVERY

11                   9.       Section 3753.5, subdivision (a) of the Code states:

12                   "In any order issued in resolution of a disciplinary proceeding before the board,  
13 the board or the administrative law judge may direct any practitioner or applicant found to have  
14 committed a violation or violations of law to pay to the board a sum not to exceed the costs of the  
15 investigation and prosecution of the case."

16                   10.     Section 3753.7 of the Code states:

17                   "For purposes of the Respiratory Care Practice Act, costs of prosecution shall  
18 include attorney general or other prosecuting attorney fees, expert witness fees, and other  
19 administrative, filing, and service fees."

20                   11.     Section 3753.1 of the Code states:

21                   "(a) An administrative disciplinary decision imposing terms of probation may  
22 include, among other things, a requirement that the licensee-probationer pay the monetary costs  
23 associated with monitoring the probation. "

24                                   FIRST CAUSE FOR DISCIPLINE

25                                   (Substantially-related Conviction)

26                   12.     Respondent is subject to disciplinary action under section 3750(d),  
27 3750(g), 3752 [substantially-related conviction], and CCR 1399.370(a) in that he was convicted  
28 of violating Penal Code section 597t, mistreatment of a confined animal, Penal Code section

597.1(a), failing to give proper care and attention to animal, and Penal Code section 597(b), cruelty to animals. The circumstances are as follows:

13. On or about October 28, 2006, Silicon Valley Animal Control Authority (SVACA) received a complaint of two adult dogs living in unsanitary conditions at a residence in Santa Clara. On October 29, 2006, Officer A. Morris investigated the complaint. He approached the residence, and through a hole in the fence, saw that the yard was covered with leaves, olives and a large amount of fecal matter. There was a strong stench of ammonia. He observed dirty bedding on bare dirt and a plastic dog house. He saw a chain wrapped around a tree trunk leading into the dog house. There were numerous piles of dry dog food spilled throughout the yard. He took photos of the area, and knocked on the residence front door to discuss the situation with the owner.

14. An elderly woman answered the door, and Officer Morris told her he was investigating a complaint regarding the dogs. The woman was incoherent, and a young woman in the house approached Officer Morris. The young woman immediately became defensive, began to yell and accused him of harassment and false accusations. She refused to provide her name and demanded his name and social security number before she would provide hers. Officer Morris requested assistance from Santa Clara Police Department. Officer E. Amos arrived, and obtained the identity of the young woman as T. R.

15. An inspection of the yard revealed an adult dog, a Pointer-Dalmatian mix. He had a hard time keeping his balance. His hind quarters were weak. His body was covered with dirt and flies, and he smelled strongly of urine. The toe on his right hind foot appeared infected as the skin was reddened and irritated. His lower body and legs were covered in what appeared to be tumors or cancer. His ears were swollen and infected. He was unable to reach his water bowl as a chain was around his neck.

16. The owner was identified as the Respondent. About 35 minutes after the officers arrived, Respondent entered the yard. When the officers asked Respondent who was feeding the dog, how often he was walked, bathed or seen by a veterinarian, he claimed his 80 year old mother was the owner.

17. Respondent was advised that he was in violation of Penal Code section 597(a), crimes against animals. Respondent surrendered the dog to SVACA. Respondent was advised that he could still be charged with animal cruelty even though he surrendered the dog.

18. On or about October 22, 2007, misdemeanor criminal complaint titled *People of the State of California vs. Timothy William Rowen*, case no. CC784591 was filed. Count 1 alleged a violation of Penal Code section 597t, mistreatment of a confined animal. Count 2 alleged a violation of Penal Code section 597.1(a), failing to give proper care and attention to animal. Count 3 alleged a violation of Penal Code section 597(b), cruelty to animals.

19. On or about July 30, 2008, Respondent was convicted on his plea of nolo contendere to Counts 1- 3. He was placed on probation for three years, ordered to serve 30 days in jail, pay fines and fees, and not to have care, control or ownership of any animal.

20. Therefore, Respondent's license is subject to discipline based on his substantially-related conviction in violation of code sections 3750(d), 3752, and CCR 1399.370(a).

## FIRST CAUSE FOR DISCIPLINE

(Corrupt Act)

21. Paragraphs 13 through 19 are incorporated herein.

22. Respondent's acts as alleged hereinabove constitute a corrupt act in violation of code section 3750(j) and cause to discipline his license.

## PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Respiratory Care Board issue a decision:

1. Revoking or suspending Respiratory Care Practitioner Number 8018, issued to Timothy W. Rowen;

2. Ordering Timothy W. Rowen to pay the Respiratory Care Board the costs of the investigation and enforcement of this case, and if placed on probation, the costs of probation monitoring;

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3. Taking such other and further action as deemed necessary and proper.

DATED: June 16, 2009

Original signed by Colleen Whitestine for:  
STEPHANIE NUNEZ  
Executive Officer  
Respiratory Care Board of California  
Department of Consumer Affairs  
State of California  
Complainant

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